

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Norfolk Division**

ROBERT TREPETA,)	
<i>On behalf of himself and all</i>)	
<i>other similarly situated individuals,</i>)	
)	
Plaintiffs,)	
)	
v.)	Civil Action No: 2:19-cv-405
)	
NATIONAL CONSUMER TELECOM:)	
AND UTILITIES EXCHANGE, INC. AND)	
EQUIFAX INFORMATION SERVICES, LLC.,)	
)	
Defendants.)	

**DEFENDANT NATIONAL CONSUMER TELECOM & UTILITIES EXCHANGE,
INC.'S ANSWER AND DEFENSES TO PLAINTIFF'S CLASS ACTION COMPLAINT**

Defendant, National Consumer Telecom & Utilities Exchange, Inc. ("NCTUE"), files its Answer and Defenses to Plaintiff's Class Action Complaint ("Complaint") as follows:

PRELIMINARY STATEMENT

In answering the Complaint, NCTUE denies any and all allegations in the headings and/or unnumbered paragraphs in the Complaint. Further, to the extent the allegations are directed to co-defendants, NCTUE is without knowledge or information sufficient to form a belief as to the truth of the allegations and, therefore, denies them.

ANSWER

In response to the specific allegations in the enumerated paragraphs in the Complaint, NCTUE answers as follows:

1. NCTUE admits that Plaintiff purports to bring this case pursuant to 15 U.S.C. § 1681, et seq. (the Fair Credit Reporting Act or “FCRA”). NCTUE denies that it violated the FCRA or any other law as alleged.

2. The allegations in Paragraph 2 of the Complaint set forth the legal conclusions of the pleading party for which no response is required from NCTUE. To the extent a response is necessary, NCTUE is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 2 and, therefore, denies them.

3. NCTUE is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 3 and, therefore, denies them.

4. NCTUE denies the allegations in Paragraph 4.

5. NCTUE admits the allegations in Paragraph 5.

6. The allegations in Paragraph 6 of the Complaint are not directed to NCTUE and, therefore, require no response from it. To the extent a response is required, NCTUE is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 6 and, therefore, denies them.

7. The allegations in Paragraph 7 of the Complaint are not directed to NCTUE and, therefore, require no response from it. To the extent a response is required, NCTUE is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 7 and, therefore, denies them.

8. The allegations in Paragraph 8 of the Complaint are not directed to NCTUE and therefore require no response from it. To the extent a response is required, NCTUE is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 8 and, therefore, denies them.

9. The allegations in Paragraph 9 of the Complaint are not directed to NCTUE and therefore require no response from it. To the extent a response is required, NCTUE is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 9 and, therefore, denies them.

10. NCTUE admits that Equifax manages and operates the NCTUE database. NCTUE is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 10 and, therefore, denies them.

11. The allegations in Paragraph 11 of the Complaint are not directed to NCTUE and therefore require no response from it. To the extent a response is required, NCTUE is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 11 and, therefore, denies them.

12. NCTUE is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 12 and, therefore, denies them.

13. NCTUE is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 13 and, therefore, denies them.

14. NCTUE is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 14 and, therefore, denies them.

15. NCTUE denies the allegations in Paragraph 15.

16. NCTUE denies the allegations in Paragraph 16.

17. The allegations in Paragraph 17 of the Complaint are not directed to NCTUE and, therefore, require no response from it. To the extent a response is required, NCTUE is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 17 and, therefore, denies them.

18. The allegations in Paragraph 18 of the Complaint are not directed to NCTUE and, therefore, require no response from it. To the extent a response is required, NCTUE is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 18 and, therefore, denies them.

19. The allegations in Paragraph 19 of the Complaint are not directed to NCTUE and, therefore, require no response from it. To the extent a response is required, NCTUE is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 19 and, therefore, denies them.

20. NCTUE denies the allegations in Paragraph 20.

21. NCTUE, responding for itself, states that the provisions of the FCRA speak for themselves and, to the extent Plaintiff misstates, misrepresents, and/or mischaracterizes the provisions of the FCRA, the allegations in Paragraph 21 are denied as to NCTUE.

22. NCTUE, responding for itself, states that the provisions of the FCRA speak for themselves and, to the extent Plaintiff misstates, misrepresents, and/or mischaracterizes the provisions of the FCRA, the allegations in Paragraph 22 are denied as to NCTUE.

23. NCTUE, responding for itself, denies the allegations in Paragraph 23.

24. NCTUE, responding for itself, denies the allegations in Paragraph 24.

25. NCTUE, responding for itself, denies the allegations in Paragraph 25.

26. NCTUE, responding for itself, denies the allegations in Paragraph 26.

27. NCTUE, responding for itself, denies the allegations in Paragraph 27.

28. NCTUE restates its responses to each of the preceding paragraphs as though fully stated herein.

29. The allegations in Paragraph 29 of the Complaint are not directed to NCTUE and, therefore, require no response from it. To the extent a response is required, NCTUE is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 29 and, therefore, denies them.

30. The allegations in Paragraph 30 of the Complaint are not directed to NCTUE and, therefore, require no response from it. To the extent a response is required, NCTUE is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 30 and, therefore, denies them.

31. The allegations in Paragraph 31 of the Complaint are not directed to NCTUE and, therefore, require no response from it. To the extent a response is required, NCTUE is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 31 and, therefore, denies them.

32. The allegations in Paragraph 32 of the Complaint are not directed to NCTUE and, therefore, require no response from it. To the extent a response is required, NCTUE is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 32 and, therefore, denies them.

33. The allegations in Paragraph 33 of the Complaint are not directed to NCTUE and, therefore, require no response from it. To the extent a response is required, NCTUE is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 33 and, therefore, denies them.

34. The allegations in Paragraph 34 of the Complaint are not directed to NCTUE and, therefore, require no response from it. To the extent a response is required, NCTUE is without

knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 34 and, therefore, denies them.

35. The allegations in Paragraph 35 of the Complaint are not directed to NCTUE and, therefore, require no response from it. To the extent a response is required, NCTUE is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 35 and, therefore, denies them.

36. NCTUE restates its responses to each of the preceding paragraphs as though fully stated herein.

37. The allegations in Paragraph 37 of the Complaint are not directed to NCTUE and, therefore, require no response from it. To the extent a response is required, NCTUE is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 37 and, therefore, denies them.

38. The allegations in Paragraph 38 of the Complaint are not directed to NCTUE and, therefore, require no response from it. To the extent a response is required, NCTUE is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 38 and, therefore, denies them.

39. The allegations in Paragraph 39 of the Complaint are not directed to NCTUE and, therefore, require no response from it. To the extent a response is required, NCTUE is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 39 and, therefore, denies them.

40. NCTUE restates its responses to each of the preceding paragraphs as though fully stated herein.

41. NCTUE denies the allegations in Paragraph 41.

42. NCTUE denies the allegations in Paragraph 42.

43. NCTUE denies the allegations in Paragraph 43.

44. NCTUE denies the allegations in Paragraph 44.

45. NCTUE denies that Plaintiff is entitled to any relief claimed in Paragraph 45 as to NCTUE.

46. NCTUE denies that Plaintiff is entitled to any relief claimed in Paragraph 46 as to NCTUE.

DEFENSES

Without assuming the burden of proof where it otherwise rests with Plaintiff, NCTUE pleads the following defenses to the Complaint:

FIRST DEFENSE

Plaintiff's Complaint fails to state a claim against NCTUE upon which relief can be granted.

SECOND DEFENSE

NCTUE adopts by reference the defenses, criteria, limitations, standards and constitutional protections mandated or provided by the United States Supreme Court in the following cases: *BMW v. Gore*, 517 U.S. 559 (1996); *Cooper Indus., Inc. v. Leatherman Tool Group, Inc.*, 532 U.S. 923 (2001); *State Farm v. Campbell*, 538 U.S. 408 (2003), and *Safeco Insurance Co. of America v. Burr*, 551 U.S. 47 (2007).

NCTUE reserves the right to assert additional defenses that it may become aware of through the course of discovery.

WHEREFORE, having fully answered or otherwise responded to the allegations in Plaintiff's Complaint, NCTUE prays that:

- (1) Plaintiff's Complaint be dismissed in its entirety and with prejudice, with all costs taxed against Plaintiff;
- (2) it be dismissed as a party to this action;
- (3) it receive a trial by jury for all issues so triable;
- (4) it recover such other and additional relief as the Court deems just and appropriate.

Respectfully submitted this 30th day of August, 2019.

/s/ John W. Montgomery, Jr.
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*Pro Hac Vice Forthcoming

Counsel for Defendants

CERTIFICATE OF SERVICE

This is to certify that I have this 30th day of August, 2019, electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such to all attorneys of record.

/s/ John W. Montgomery, Jr.
John W. Montgomery, Jr.